

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

2004 OCT 25 PM 2:01
RECEIVED
CLERK OF COURT
JUDGE
OFFICE

HOLM CONSTRUCTION, LLC, an Idaho
Limited Liability Company, in the name of
THE UNITED STATES OF AMERICA,

Plaintiff(s),

v.

DESERT SAGE CONTRACTORS, INC., an
Idaho Corporation, and DEVELOPERS SURETY
AND INDEMNITY COMPANY, Surety,

Defendant(s).

Case No. CV-03-273-E-LMB

CASE MANAGEMENT
ORDER

In accordance with the agreements reached in the telephone status conference held between counsel and the Court on October 21, 2004 and to further the efficient administration of this matter,

NOW THEREFORE IT IS HEREBY ORDERED that the following recitation of deadlines and procedures shall govern this litigation:

1. Amendment of Pleadings and Joinder of Parties: All motions to amend pleadings and join parties, except for allegations of punitive damages, shall be filed on or before **December 15, 2004**. This deadline shall only be extended for good cause shown.¹ All parties are

¹ The Ninth Circuit has held that motions to amend filed after the Scheduling Order deadline are governed, not by the liberal provisions of Fed.R.Civ.P. 15(a) but instead, by the more restrictive provisions of Fed.R.Civ.P. 16(b) requiring a showing of "good cause." *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604 (9th Cir. 1992).

entitled to know the claims and parties well-before trial rather than be forced to pursue or defend against a moving target. Although this deadline precedes the general discovery deadline, the parties are directed to send out all discovery requests that might relate to amendment or joinder enough in advance of this amendment and joinder deadline to obtain the responses needed to make an informed decision on amendment and joinder.

2. Alternative Dispute Resolution:

Pursuant to the Litigation Plan, the parties have elected to participate in mediation.

Therefore, this matter is referred to Denise Asper, the ADR Coordinator, for the purpose of assisting the parties in the selection of a mediator. The parties shall be responsible for contacting Denise Asper at 208-334-9067 regarding selection of a mediator and scheduling of this matter. The mediation shall be held by April 29, 2005.

3. Disclosure of Experts:

a. The Plaintiff shall disclose the experts intended to be called at trial on or before January 14, 2005.

b. The Defendant shall disclose the experts intended to be called at trial on or before February 15, 2005.

c. All rebuttal experts shall be identified on or before April 1, 2005.

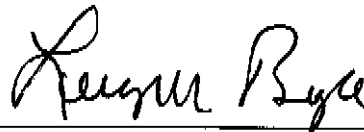
4. Rules Governing Disclosure of Expert Witnesses: Within the deadlines for the disclosure of expert witnesses set out above, the parties shall also provide – for each expert disclosed – the report described in Fed. R. Civ. P. 26(a)(2)(B), as modified by Local Rule 26.2(b). Supplementation to the expert witness report shall be done in accordance with Fed. R. Civ. P. 26(e)(1). Pursuant to Local Rule 26.2(b), expert witnesses will not be

allowed to offer any opinion not disclosed in the mandatory Rule 26 disclosures, supplementation, or deposition. This includes rebuttal experts. No undisclosed expert rebuttal opinion testimony will be allowed at trial.

5. Completion of Discovery: All discovery will be completed by **February 25, 2005**. This is a deadline for the completion of all discovery; it is not a deadline for discovery requests. Discovery requests must be made far enough in advance of this deadline to allow completion of the discovery by the deadline date. The parties may, by stipulation, agree to defer some trial-related discovery, such as discovery related to damages issue, until after the Court has ruled on any dispositive issues.
6. Dispositive Motion Deadline: All dispositive motions shall be filed by **April 29, 2005**. This is the critical event for case management and will dictate when the trial will be set. As set forth below, a trial setting conference will be scheduled immediately following resolution of all dispositive motions. To facilitate a prompt trial setting, the Court will make every effort to schedule oral argument within 60 days and issue a decision within 30 days after the oral argument.
7. Scheduling of Trial and Pretrial Conference. Plaintiff's counsel shall contact the Court's staff within one week following the entry of a decision on all pending dispositive motions to make arrangements for a telephone scheduling conference in which the trial and pretrial conference shall be set. If no dispositive motion is filed, Plaintiff's counsel shall immediately contact the Court's staff within one week of the dispositive motion filing deadline to set a telephone scheduling conference.

8. If counsel has a procedural or legal question that needs to be brought to the Judge's attention, please contact Marianne Bowman, Judicial Assistant, or Joel Flake, Law Clerk, at (208) 334-9010.
9. With regard to any scheduling matters or calendar issues, please contact Lynette Case, Courtroom Deputy, at (208) 334-9023.
10. Fax Notification: If counsel signs up for Fax Notification of the Court's orders, then it is not necessary to send stamped, return envelopes.

DATED this 25th day of October, 2004.



LARRY M. BOYLE
United States District Court

United States District Court
for the
District of Idaho
October 25, 2004

* * CLERK'S CERTIFICATE OF MAILING * *

Re: 4:03-cv-00273

I certify that I caused a copy of the attached document to be mailed or faxed to the following named persons:

Stephen J Blaser, Esq. 1-208-785-7080
BLASER SORENSEN & HANSEN
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Blackfoot, ID 83221

Marty Ray Anderson, Esq.
1000 Riverwalk Dr #175
Idaho Falls, ID 83402

____ Chief Judge B. Lynn Winmill
____ Judge Edward J. Lodge
____ ✓ Chief Magistrate Judge Larry M. Boyle
____ Magistrate Judge Mikel H. Williams

Visiting Judges:

____ Judge David O. Carter
____ Judge John C. Coughenour
____ Judge Thomas S. Zilly

Cameron S. Burke, Clerk

Date: 10-25-04

BY: OS

(Deputy Clerk)